

## MINUTES OF THE REGULAR MEETING OF AUGUST 13, 2015

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 13, 2015 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Rodney Smith, Mr. I.G. Burton, III and Mr. Martin Ross with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Ms. Janelle Cornwell – Planning and Zoning Manager.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Agenda as circulated. Motion carried 4 – 0.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Minutes of July 30, 2015 as circulated. Motion carried 4 – 0.

### OLD BUSINESS

#### **C/U #2022 – Home of the Brave Foundation, Inc.**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a nonprofit boarding home for female veterans to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 5.0 acres, more or less.** The property is located northwest of Sharps Road (Road 200) 0.6 mile northeast of Coastal Highway (Route One) (911 Address: 6632 Sharps Road, Milford) Tax Map I.D. 330-12.00-11.01.

The Commission discussed this application which has been deferred since July 30, 2015.

Mr. Burton stated that he would move that the Commission recommend approval of Conditional Use No. 2022 for the Home of the Brave Foundation, Inc. for a non-profit boarding home for female veterans based on the record made during the public hearing and for the following reasons:

- 1) The Applicant is proposing a traditional housing facility to provide housing, food, transportation, employment and counseling assistance to female veterans of the United States Armed Forces. The housing will be on a temporary or a transitional basis until the veterans can find more permanent housing.
- 2) The use is of a public or semi-public character in that it provides a service to veterans of the United States Armed Forces residing in Kent and Sussex Counties. This is an important service to these veterans.
- 3) The application is for a site that has been utilized for approximately 19 years for similar housing purposes. The female veteran housing will be an expansion on the same site, but in two separate housing structures.

- 4) The site is surrounded by agricultural uses. The use will not adversely affect neighboring properties or the uses that occur on nearby properties.
- 5) The site will have little or no impact upon traffic or area roadways.
- 6) The application received support from the Walter L. Fox Post No. 2 of the American Legion and the Executive Director of the Delaware Commission of Veterans Affairs.
- 7) There was unanimous support in the County Council Chambers for the application and no parties appeared in opposition to it.
- 8) This recommendation is subject to the following conditions:
  - A. The female housing shall be in two separate buildings as identified on the Preliminary Site Plan.
  - B. As proposed by the applicants, the housing will be on a temporary or transitional basis. There shall not be any permanent residency on the site, except as may be necessary for support staff.
  - C. As a result of this approval, the maximum number of residents at the facility shall be 31 veterans including both male and female veterans.
  - D. The use shall comply with all Sussex County parking requirements.
  - E. The site shall comply with all requirements of the Sussex Conservation District.
  - F. The site shall comply with all requirements of the Delaware Department of Transportation (DelDOT).
  - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0.

#### **C/U #2024 – Stockley Materials, LLC**

**An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for commercial landscaping materials, storage and sales to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.68 acres, more or less.** The property is located southeast of Lewes-Georgetown Highway (Route 9) 0.3 mile southwest of Coastal Highway (Route One) (911 Address; None Available) Tax Map I.D. 334-5.00-192.00, 193.00 and 194.00.

The Commission discussed this application which has been deferred since July 30, 2015.

Mr. Smith stated that he would move that the Commission recommend approval of Conditional Use No. 2024 for Stockley Material, LLC for a commercial landscaping material storage and sales facility based upon the record made during the public hearing and for the following reasons:

- 1) The property is located along U.S. Route 9, which is classified by the Delaware Department of Transportation as a major collector road. The site is opposite an existing

C-1 General Commercial District and is next to a Delmarva Power Substation. The area is general is a mixed use area that includes existing residential and commercial uses.

- 2) This application represents the relocation of an existing business from across U.S. Route 9 to the proposed location. As a result, it will not generate any increase in traffic on U.S. Route 9.
- 3) The property is zoned AR-1 Agricultural Residential. The use of the property as a landscape material storage and sales facility is consistent with the underlying agricultural zoning.
- 4) Public sewer is available to the site from Sussex County.
- 5) The use will not adversely affect the nature of the area or neighboring properties.
- 6) The intended use of the property as a material storage and landscaping sales facility is of a public or semi-public character that will benefit the residents and visitors of Sussex County.
- 7) This recommendation is, however, subject to the following conditions:
  - A. The use shall be limited to commercial landscaping material storage and sales.
  - B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
  - C. One lighted sign not to exceed 32 square feet per side shall be permitted.
  - D. The hours of operation shall be from 8:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. until 4:00 p.m. on Saturdays.
  - E. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
  - F. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
  - G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.
  - H. All materials shall be stored in bins on a concrete or hot mix base. All runoff from the bins shall be controlled so that it does not travel to neighboring or adjacent properties, or adversely affect groundwater on the site.
  - I. The site shall be fenced and gated. The gate at the entrance shall be off-set from U.S. Route 9 to allow vehicles to still pull off of the U.S. Route 9 right-of-way if the gate is closed.
  - J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0.

## PUBLIC HEARINGS

### **C/U #2017 – Eli and Victoria Zacharia**

**An Ordinance to grant a Conditional Use of land in a MR (Medium Density Residential District) for multi-family dwelling structures to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,500 square feet, more or less.** The property is located northwest of John J. Williams Highway (Route 24) 365 feet southwest of Spencer Lane, the entrance into Harts Landing Subdivision (911 Address: 20336 John J. Williams Highway, Lewes) Tax Map I.D. 334-18.00-7.00.

Mr. Lank advised the Commission that this application had previously been scheduled for public hearing on June 11, 2015 and that the applicant did not appear; and that the Commission, based on a recent Ordinance, granted permission for the application to be rescheduled since there were health reasons for the lack of the applicants appearance on June 11, 2015.

The Commission found that the applicant provided a survey/site plan with his application for two residential units, and that the survey/site plan depicts the existing improvements on the property.

The Commission found that on February 18, 2015 DeIDOT provided comments in the form of a Support Facilities Report referencing that the Level of Service “E” of John J. Williams Highway will not change as a result of this proposed application.

The Commission found that on June 9, 2015 the Sussex Conservation District provided comments in the form of a Memorandum referencing that there is one soil type on this property; that the applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after construction; that there are no storm flood hazard areas affected; that no off-site drainage improvements will be required; that it may be possible that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that on June 9, 2015 the County Engineering Department Utility Planning Division provided comments in the form of a Memorandum referencing that the property is located in the Goslee Creek Planning Area; that the parcel has not been provided with a sewer connection point; that the project is not capable of being annexed into a County operated sanitary sewer district at this time; that conformity to the North Coastal Area Planning Study will be required; that when the County provides central sewer service, the on-site system must be abandoned and a direct connection to the central system is mandatory; and that a concept plan is not required.

The Commission found that Eli Zacharia and Sammy Zacharia were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that they have an attached garage that has been remodeled for extra living space with a kitchen; that Sammy Zacharia or a seasonal employee will reside in the converted garage unit; that separate electrical meters have already been installed.

Mr. Lank advised the Commission that if the use is approved a minimum of four parking spaces will be required, and that the MR Medium Density Residential zoning classification permits Conditional Use applications for multi-family dwelling structures.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 3 – 0. Mr. Smith was absent during the vote.

**C/Z #1781 – Riverview Associates III, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 3.0 acres, more or less.** The property is located southwest of Dagsboro Road (Road 334) 900 feet northwest of Fire Tower Road (Road 334A) (911 Address: 28086 Dagsboro Road, Dagsboro) Tax Map I.D. 233-10.00-17.00.

The Commission found that the applicants submitted surveys with their application on June 8, 2015; and Exhibit Booklets on August 3, 2015 which include a copy of the application form and a legal description; a copy of the deed to the property; photographs of the property; a site map of the site as it relates to other adjoining properties; comments from DelDOT, dated May 12, 2015; an excerpt from the County Comprehensive Land Use Plan Map and references that the site is in a Town Center Area; an excerpt from the Strategies for State Policies and Spending referencing that the property is in Level 2 with a description; a zoning reference map of the area; and an aerial photograph. It was noted that the DelDOT comments were received by the Planning and Zoning Department under separate cover.

The Commission found that the County Engineering Department Utility Planning Division provided comments on August 11, 2015 in the form of a memorandum referencing that the property is located in the Dagsboro/Frankford Planning Area; that sewer service has not been extended to the area at this time; that conformity to the Dagsboro/Frankford Planning Study will be required; that when sewer service is provided to the area, connection is mandatory; that the County does not have a schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided comments on August 12, 2015 in the form of a memorandum referencing that there are two soil types on the property; that the applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that there is a potential that off-site drainage improvements may be required; that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that Jeromy Smith, present on behalf of Riverview Associates III, LLC, with Dennis Schrader, Esquire of Morris James Wilson Halbrook & Bayard, LLP, and stating in their presentation and in response to questions raised by the Commission that the site contains approximately 3 acres of land with improvements and is adjacent to a 5.0 acre parcel already zoned C-1 General Commercial: that they propose to combine the two parcels as an approximately 8.0 acre tract for commercial use and activities, referencing professional services and trade services; that they have no current intent to develop the remaining acreage; that the site is centrally located near Dagsboro, across from a church, a DelDOT yard, a deli, and several other commercial businesses; that DelDOT has not required a Traffic Impact Study; that the application is in compliance with the County Comprehensive Land Use Plan and the purposes of the Zoning Ordinance; that the dwelling is being rented; that they realize that if the rezoning is approved a site plan will be subject to review and approval by the Commission and other agencies; that a tax ditch does exist in the rear of the farm that serves as drainage for the farm; and that the site is located in a Town Center Area according to the County Comprehensive Land Use Plan which is an area near incorporated municipalities and within which the major guidelines include single-family, townhouse and multi-family units to be served by commercial uses, retail and office uses, but not large scale intense shopping centers.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 3 – 0. Mr. Smith was not present during the vote.

**C/Z #1780 – Lockwood Design and Construction, Inc.**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a HR-1- RPC (High Density Residential District – Residential Planned Community) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 35.45 acres, more or less.** The properties are located on the northeast side of Warrington Road (Road 275) 0.25 mile southeast of John J. Williams Highway (Route 24) (911 Address: None Available) Tax Map I.D. 334-12.00-127.02, 127.04, 127.05.

The Commission found that the applicants had provided a survey/site plan with the application as submitted on May 5, 2015. And that the applicants had provided an Exhibit Booklet on August 5, 2015. The Exhibit Booklet contains references to the Revised Site Plan; PLUS comments and responses; an Environmental Assessment and Public Facilities Report; Technical Advisory Committee comments and a Staff review letter and a response; DelDOT correspondence; Sussex Conservation District comments; Utility comments; and Environmental comments and maps. It was noted that the DelDOT and PLUS comments were received by the Planning and Zoning Department under separate cover.

The Commission found that the County Engineering Department Utility Planning Division provided comments on August 12, 2015 in the form of a memorandum referencing that wastewater capacity is available for up to 142 units in accordance with a density calculation of 4.0 EDU per acre; that Ordinance 38 construction will be required; that if the West Rehoboth Expansion area system is extended to provide sewer service the System Connection Charge Rate is \$5,775.00 per EDU; that there is no sewer service to the parcel at this time; that the County does not have a schedule to extend sewer service to the parcel at this time; that the project is capable of being annexed into the West Rehoboth Expansion area; that conformity to the North Coastal Planning Study and amendments will be required; that the proposed project is located within the planning area for sewer service, however, it is located outside of the West Rehoboth District boundary; that the project can be annexed into the sewer district using the County's administrative process; that the project is located on AR-1 zoning lands allocated for sewer service at 4.0 EDU per acre; that the project is proposing 203 residential units, which exceeds the Engineering Department's planning assumptions; that prior to being approved for a sewer district expansion, a planning study shall be performed at the developer's expense to determine if capacity exists and whether transmission expansion improvements are required; that any and all system upgrades shall be performed at the developer's expense; that the proposed development will require a developer installed collection system in accordance with County standards and specifications; that the County Engineer shall approve the connection point; that a Sewer Conceptual Plan shall be submitted for review and approval prior to initiating the annexation process; and that a concept plan is required. Attached to the comments were a listing of steps to be completed for extending district boundaries and a checklist for preparing conceptual plans.

The Commission found that the Sussex Conservation District provided comments on August 12, 2015 in the form of a memorandum referencing that there are two soil types on the properties; that the applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that it may not be necessary for any off-site drainage improvements; that on-site drainage improvements may be necessary; and that no tax ditches are affected.

The Commission found that a letter from Robert Kaden on behalf of the residents of the Estates of Sea Chase Condominium Association was received on August 10, 2015 voicing their opposition to this application and expressing concerns that the project will impact the atmosphere of their community; that the parcel of land being considered currently offers their community a beautiful setting of high dense trees; that the lots next to these trees were sold as premium lots; that they do not want to see these trees damaged or removed by construction of any kind; that they are also concerned about additional traffic created by construction of this project in addition to the already existing everyday traffic once construction is completed; that the roads in the area are already experiencing too much traffic, especially during peak summer months; that other projects in the area that are under construction are already increasing traffic in the area; that adding additional access roads to another community will only increase the already high chance of accidents; and asking that the Commission consider the feelings and the impact to current residents in the area over the wishes of a large outside developer.

Mr. Lank advised the Commission that he also received an email in opposition to this application from Carol Hughes referencing that rezoning is not necessary; that the property owners can develop without a zoning change; that if the County continues to allow maximum build out on every parcel of land, the impact on infrastructure and delivery of services will be devastating; that the current back-ups on Route One, Warrington Road, Plantation Road, and Route 24 are a valid precursor of daily traffic patterns if over development continues; asking the County to imagine summer traffic woes occurring all year long; and that allowing that to happen would be a travesty.

Mr. Lank advised the Commission that he also received an email in opposition to this application that has been miss-filed and that he would include reference to that email in the Minutes. The email was found and it is reported that Donna Voigt references that residents living in communities along Old Landing Road voiced concerns regarding the potential life/safety issues posed by the proposed rezoning of the Old Landing Golf Course; that DelDOT continues to collect monies from developers, and do absolutely nothing to improve the roadways and address residents' concerns; that approved development is already adding to the traffic and life/safety concerns along Old Landing Road and Warrington Road; that Sawgrass North has built and sold a large number of available home-sites, and that Redden Ridge subdivision is currently underway with site work to build another housing development; questioning who is looking at the cumulative impact of this development and truly addressing the impact; that traffic backs up on eastbound Warrington Road from Old Landing Road to nearly Route 24; that adding more traffic to an already failing roadway is certainly not the answer; and requesting the Commission and the County Council to defer any action on this application until tangible improvements are well underway to address the known and well-studied problems with these surrounding roadways.

The Commission found that Robert Hood, property owner, and Don Lockwood, applicant representative, were present with Gene Bayard, Esquire with Morris James Wilson Halbrook & Bayard, LLP, and Roger Gross, Professional Engineer with Merestone Consultants, Inc. and that they stated in their presentations and in response to questions raised by the Commission that the property has been owned by the Hood family for approximately 280 years; that the site is wooded and well drained; that the original Hood property included lands on both sides of Route 24 and Route One, including the Rehoboth Mall site, the church across from the Rehoboth Mall; that, and the Beebe Medical Facility; providing a description of the many change in zoning and conditional use applications that have been made; that no wetlands exists on the property; that the soils are adequate for stormwater management and residential development; that Envirotech Environmental Consulting, Inc. provided a woodland conditions study which is a part of the Exhibit Booklet; that the Division of Fish and Wildlife provided a report on rare, threatened and endangered species, unique natural communities, and other significant resources that relate to the site, which are part of the Exhibit Booklet; that central water will be provided by Tidewater Utilities, Inc.; that public sewer will be provided by Sussex County; that the project will be subject to the new State stormwater regulations; that DelDOT did not require a Traffic Impact Study or Traffic Operations Analysis; that the developers will be required to contribute to the area-wide study for roadway improvements; that the application was reviewed by both the Preliminary Land Use Service (PLUS) and the County Technical Advisory Committee members;



that an Environmental Assessment and Public Facilities Evaluation Report is included in the Exhibit Booklet; that the site plan was revised in consideration of the comments received from County staff and the PLUS comments; that additional sidewalks have been added and access to the Beebe Medical Facility site has been provided to the property line; that 82 townhouse style condominium units, 60 apartment style condominium units, and 60 single family detached style condominium units are proposed for a total of 202 units; that the 60 single family detached style units are proposed along Sea Chase and Warrington Road; that the area densities include: the proposal for this site at 5.7 units per acre; the Estates at Sea Chase at 4.13 units per acre; Sea Chase at 6.5 units per acre; and Sterling Crossing at 6.29 units per acre; that the area of the single family detached units equals 3.36 units per acre; that the proposed amenities include a community building and pool with a large amount of open space throughout the project; that the amenities are proposed to be completed when the Certificate of Compliance is issued for the 75<sup>th</sup> unit; that the impervious cover should equal approximately 40% of the site, providing 60% of the site as open space; that the minimum width of the perimeter buffer is 20 feet; that they have met with Howard Blizzard of the Rehoboth Beach Public Works department and heard no objections; that the project will be similar in unit design as the Rehoboth Grande site; that they propose to develop the site for residents aged 55 or older; that there should be little to no impact on the Cape Henlopen School District; that the application complies with the Sussex County Comprehensive Land Use Plan, and the Strategies for State Policies and Spending; that this application is a classic infill project due to the location of the adjacent projects; and that the application is consistent with the trend of development in the area.

Mr. Robertson advised the Commission that an RPC Residential Planned Community application requires consideration of the site plan; that the County must determine if the use is appropriate at this location; and that conditions of approval can be applied by the County.

The Commission found that the applicants representatives responded to questions raised by the Commission by stating that they applied for HR-1 High Density Residential rather than MR Medium Density Residential zoning since there are no immediate MR zoning classifications; that HR zoning classifications exists immediately adjacent to the site and across from the site; that they have no intent to create a hotel/motel on the site; that an RPC Residential Planned Community has been proposed; that there are no affordable housing components with this application; that their goal is to design and build a private ownership project; that the swimming pool will be similar to the Canal Corkran project near Rehoboth with a pool approximately 40 feet by 60 feet in size and a community building containing 5,000 to 7,000 square feet; that streets with open swales are proposed with bio-filtration; that sidewalks are proposed throughout the project and will be calculated as a part of the stormwater design; that they have not yet met with DelDOT or DART for bus service; that public transportation may be available with the Beebe Medical Facility; that a central mail facility may be located in the multi-family areas; that they realize that their 62 unit increase in the number of units referenced by the County Engineering report will required a Capacity Study Review by County Engineering; that they are planning to save as many trees as possible; that the single family detached units will have a foot print of approximately 1,600 to 1,800 square feet; and that the single family units will probably be in first phase of development.

The Commission found that there were no parties present to speak in support of this application.

The Commission found that Harvey Grider of Sterling Crossing and Rob Baur of Sea Chase expressed concerns about landscaping and the loss of the wooded area; that some of the residents have a fear that if the project is developed and only leaves 20' of trees that the trees may fall from the winds and damage their homes; that traffic on Warrington Road is a major concern especially with rumored lane expansions and widening; that it has been reported that Warrington Road is intended to be widened to four lanes; that a traffic study should be requested; that traffic control is needed at Old Landing Road; that responsible growth is needed; and that the bike maps direct cyclist to these local roads which have no shoulders or bikepaths.

Chairman Wheatley asked Bill Brockenbrough, County Coordinator with DelDOT, to come forward if he can answer the questions raised.

Mr. Brockenbrough stated that he does not have a schedule for the Route 24 project; that his Office has been working on the Osprey Point project and should have a report on that application soon; that the entrance to this project may need to be relocated further north subject to resolving site distances and vehicle que concerns, determining where the Rehoboth well head is located; and verifying the site distance from the curve on Warrington Road to the entrance location.

The Commission found that Nancy Feichtl of Sea Chase; Richard Mihellic of Sea Chase; Wayne Badilino of Pine Country Condominium; Chuck Oaks; Charlotte Reid of Sawgrass South; Donna Voigt; Mr. and Mrs. C. J. Bailey, residents living across Warrington Road from the entrance; James King; Don Kaden, President of the Estates of Sea Chase Condominium Association; and Richard Diesinger of the Estates of Sea Chase were present and expressed concerns that 48% of this area has a senior population; that the highest accident rates relate to senior drivers; that the area cannot support more dense developments without improving the roads in the area; that traffic is always backed up at Warrington Road and Old Landing Road; that residents cannot get out of the Estates of Sea Chase, Sea Chase, or Sterling Crossing onto Old Landing Road due to the traffic; that Sea Chase has spent \$1,000s for drainage with no curb and gutter; that sidewalks are needed, if this project is approved; that they oppose the project and the proposed density; that trees should be maintained; that many animals and birds live on this site; that all buffers should be wider than 20 feet; that there are no bike lanes for cyclists; that they are concerned about access by emergency vehicles in emergencies; that evacuation planning has not been performed; that the County needs to create an evacuation plan for this area; that pedestrian safety is a concern; that the loss of the trees is a habitat issue and needs to be addressed; that a traffic impact study is needed; that turn lanes are not depicted on the site plan; that the relocation of the entrance into the project is supported, if approved; that interconnection should be addressed with the Beebe Medical Facility and other project in the area; that central water and central sewer is supported; that the developer could clear-cut the woodlands; that Warrington Road and Old Landing Road are dangerous for bicycles and scooters; and that having only one entrance is a safety concern.

At the conclusion of the public hearing, the Chairman asked for a show of hands in opposition. 24 People raised their hands. It was noted that some people had already exited the Chambers.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Ross, seconded by Mr. Burton, and carried with three (3) votes to defer action for further consideration. Motion carried 3 – 0, with Mr. Johnson and Mr. Smith both being absent.

### **AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS**

Mr. Robertson summarized the proposed Ordinance which would establish a six-month moratorium upon the acceptance of applications for a Special Use Exception for off-premises signs. This moratorium may be extended, modified, or terminated at any time by a majority vote by the Sussex County Council.

The Commission discussed the Ordinance proposal.

Mr. Ross asked that the Board of Adjustment letter to the Sussex County Council be attached to the Minutes of this meeting to be a part of the record for reference purposes.

Mr. Robertson stated that the entire sign ordinance section of the code may need to be reviewed and addressed.

The Commission found that no parties appeared in support of or in opposition to the proposed Ordinance to establish a moratorium on off-premises signs.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to defer action for further consideration by the full Commission. Motion carried 3 – 0. Mr. Johnson and Mr. Smith were both absent during the public hearing.

### **OTHER BUSINESS**

#### **Woodridge Subdivision - #2005-42** Revised Final Subdivision Plan

Ms. Cornwell advised the Commission that this is a Revised Final Subdivision Plan for the creation of 188 single family dwellings with private roads, open space and amenities. The Commission granted preliminary approval at their meeting on June 8, 2006. The Commission granted Final Subdivision approval on December 17, 2008. At their meeting of May 22, 2014, the Commission granted preliminary approval of the revised development with the amendment to the condition that the amenities be open for the use of the residents prior to the issuance of the 75<sup>th</sup> Building Permit. The major revision to the subdivision is the street layout and lot configuration on the east side of the subdivision. The subdivision complies with the conditions of approval that include sidewalks on both sides of the roads within the community, streetlights, maintaining as many trees as possible, and providing four parking spaces near the bus shelter. The property is zoned AR-1 and is located on the east side of Cool Springs Road. Staff is in receipt of all agency approvals.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to approve the Revised Final Subdivision Plan. Motion carried 3-0.

### **Delaware Botanic Gardens (C/U #1965)**

#### **Preliminary Site Plan**

Ms. Cornwell advised the Commission that this is a Preliminary Site Plan for the construction of a 44,136 SF Visitors Center, a 22,625 SF conservatory along with a greenhouse, boat house, equipment shop and several smaller buildings. There will also be a multiple walking path and gardens. The plan includes a future amphitheater. The Commission recommended approval at their meeting of September 12, 2013 and County Council granted approval on October 8, 2013. The Preliminary Site Plan complies with the conditions of the Conditional Use. Staff is awaiting agency approvals and revisions per a letter dated July 28<sup>th</sup>, 2015.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to approve the Preliminary Site Plan with Final Site Plan approval subject to staff upon receipt of agency approvals. Motion carried 3-0.

### **Americana Bayside – Village A**

#### **Preliminary Site Plan**

Ms. Cornwell advised the Commission that this is a Preliminary Site Plan for the construction of 112 dwelling units with roads and open space for Parcel 36 Village A of Americana Bayside. The plan proposes 56 single family dwellings and 56 duplex dwellings. The plan reflects a reduction in the overall number of units from 169 lot to 112 lots for this portion of the development from the original master plan. The significant changes are the removal of two 30 unit condo buildings and changes in the layout of the roads. The plan proposes sidewalks on both sides of the roads within the area. A lot line adjustment will occur to revise the property lines to ensure the proposed lots do not cross into the golf course property. The property is zoned MR and is a RPC. The tax parcel number is 533-19.00-36.00.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to approve the Preliminary Site Plan. Motion carried 3-0.

### **Hawthorne Subdivision - #2005-73**

#### **Revisions to Final Subdivision Plan**

Ms. Cornwell advised the Commission that this plan is to allow for revisions to the Final Subdivision Plan. The property is located off of Lewes-Georgetown Hwy. near Gravel Hill Road. The property is zoned AR-1. The subdivision is being proposed in phases. This revision will address Phase 1. All other phases will come back to the Commission for consideration. The subdivision name is also being changed from Paradise Lakes to Hawthorne. The overall number of lots is not changing, however, the layout is changing slightly. Several lots were relocated along Alcott Way closer to Emerson Way. The width of the lots is increasing from 60' to 75'. The amenities are also being relocated closer to Lewes-Georgetown Highway. The plan includes sidewalks on both sides of the roads and street lights as a condition of approval. The amenities

still include a clubhouse and tennis courts. The amenities shall be subject to a separate Site Plan. Planning Commission granted final subdivision approval at their October 14, 2009 meeting. Staff has all agency approvals.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to approve the Revised Subdivision Plan. Motion carried 3-0.

### **Lands of Donna Alexander – Evans Road**

Minor Subdivision with a 50' Easement

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of one (1) parcel of land off of a proposed 50' easement. The new lot will be 1 acre. The easement will be located over an existing entrance. The property is zoned AR-1. The tax parcel number is 533-11.00-61.00. The easement is located on the north side of Evans Road. Staff is awaiting approval from DelDOT.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to approve the Minor Subdivision with a 50' easement. Motion carried 3-0.

### **Johnsonville Subdivision - #2006-39**

Elimination of multi-use path

Ms. Cornwell advised the Commission that this plan is to allow for the elimination of the multi-use path along Lawson Road. for the Record Plan for the Johnsonville subdivision. The property is located off Lawson Road. near Hollyville Road. The property is zoned AR-1. As part of the subdivision approval from DelDOT a 10' wide multi-use/bike path was required along Lawson Road. The Subdivisions entrance plan approval expired and as part of obtaining a new entrance plan approval, DelDOT noted that the multi-use path requirement could be waived. DelDOT noted that they could waive the multi-use path requirement if it was not a Condition of Approval by the Commission. The Commission required that a sidewalk be constructed on at least one side of the road and shall connect to the multi-use path. The revised plan provides the sidewalk along one side of the roads within the subdivision. The sidewalk along the north side of Henry's Way North is proposed to be extended to connect to the school bus shelter located along Lawson Road. The location of the sidewalk is also being relocated from within the right-of-way to be within the 10' easement along the front of the properties. This change complies with County Engineering approval of the road design. The Commission granted final subdivision approval at their meeting on March 14, 2011. If approved the Record Plan will need to be re-recoded upon approval from DelDOT.

There was a brief discussion about the removal of the multi-use path.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to allow for the removal of the multi-use path along Lawson Road, and noting that the sidewalks within the subdivision would be located within the easement along the front of the parcels. Motion carried 3-0.

**Eastern Shore Natural Gas – C/U #889**

Expansion of Conditional Use

Ms. Cornwell advised the Commission that this is a request to allow for expansion of the existing Conditional Use. In 1988 a Conditional Use (CU #889) was granted to allow for the establishment of a fenced in area containing a compressor building and a control building on a 7.99 acre portion of the 28.92 acre parcel. In 1992 the Commission allowed for an expansion of the Conditional Use to construct the equipment and buildings currently on the site. The applicant is again requesting to expand the Conditional Use to expand the fenced area and add a new compressor building and a new control building. All of the new items will occur within the original 7.99 acre portion of the parcel. If the expansion of the Conditional Use is approved a Site Plan will come before the Commission for consideration. The property is zoned AR-1. The tax parcel number is 131-10.00-99.00. The property is located off of Black Cherry Drive.

There was a brief discussion regarding the proposed expansion of the Conditional Use.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to approve the expansion of the Conditional Use with the revised site plan to come before the Planning Commission. Motion carried 3-0.

**Arbor at Cottage Dale – C/U #1845**

Final Site Plan Approval

Ms. Cornwell advised the Commission that this is a Final Site Plan for the construction of 6 apartment buildings for a total of 168 dwelling units. This Site Plan is part of Conditional Use (CU #1845). The Commission recommended approval of the Conditional Use at their meeting of November, 12, 2009. The Sussex County Council granted approval of the Conditional Use at their meeting of February 23, 2010. The plan proposes stormwater management within the 50' buffer. The stormwater management area within the 50' buffer requires Commission approval. The property is located off of Mackenzie Way off Plantations Road. Staff is in receipt of correspondence from Cape Henlopen School District regarding the condition that a bus stop be placed on the site. The School District indicated that the proposed bus stop shown on the plan would not be feasible as state regulations do not allow a bus to enter a development unless a student lives more than ½ mile from the entrance. Decision regarding the Final Site Plan was deferred at the July 30, 2015 Commission meeting.

There was brief discussion regarding an extension request that would be reviewed at a future Commission meeting and discussion regarding the bus stop.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to approve the Final Site Plan and to eliminate the condition regarding the bus stop. Motion carried 3-0.

**Master Tire - C/U #1964**  
Final Site Plan (C/U #1964)

Ms. Cornwell advised the Commission that this is a Final Site Plan to allow for the use as a used car facility and tire sales. The Site Plan complies with the conditions of approval. The Conditional Use was approved by County Council at their July 16, 2013 meeting. The Commission granted preliminary Site Plan approval at their meeting of August 8, 2013. The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 135-14.00-65.00. The property is located on the east side of U. S. Route 113 north of North Bedford Street Extended. Staff is in receipt of all agency approvals. The Commission deferred action at their meeting on July 30, 2015.

Mr. Robertson stated that he contacted the County Finance Director and found that there are no outstanding fees owed to the County for the tire cleanup.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to approve the Final Site Plan. Motion carried 3-0.

**Sunrise Ventures, LLC – C/U #1642**  
Request for Time Extension

Ms. Cornwell advised the Commission that this is a request for a five (5) year extension for the Conditional Use for 30 multifamily dwellings. The Conditional Use (CU 1642) was originally approved by County Council on March 21, 2006. The Conditional Use was granted extensions as part of County Council's Time Extension Ordinances. The plan will expire on January 1, 2016 unless the site is under substantial construction. The applicant has stated that due to litigation construction on the project has been delayed leading to the extension request. The Commission took no action on this item at their meeting on July 30, 2015.

There was discussion regarding the proposed extension and issue that this site is different than other sites that could ask for an extension as this is a brownfield site and requires remediation prior to construction commencing.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to suspend the extension for 6 months beginning on August 13, 2015. Motion carried 3-0.

Meeting adjourned at 9:17 p.m.